

COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF CORRECTION

103 CMR 180

REGULATIONS GOVERNING RESEARCH AND EVALUATION

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180.01 Purpose

The purpose of this document is to establish Department of Correction policy governing research and evaluation within the department.

180.02 Statutory Authorization

These regulations are issued pursuant to M.G.L. c. 124, s. 1(c), (k), (q), and consistent with M.G.L. c. 6, s.s. 167-178.

180.03 Cancellation

These regulations cancel all previous department policy statements, bulletins, directives, orders, notices, rules or regulations regarding research and evaluation.

180.04 Applicability

These regulations apply to all department managers, employees and correctional institutions.

180.05 Access to Regulations

103 CMR 180.00 will be maintained within the central policy file of the Department and will be accessible to all department employees. A copy of 103 CMR 180.00 shall also be maintained in each superintendent's central policy file, and at each inmate library.

180.06 Definitions

Criminal History Systems Board - The Criminal History Systems Board (CHSB) is the board responsible for regulating the collection, storage, dissemination, and usage of CORI.

Criminal Offender Record Information (CORI) - CORI means records and data in any communicable form compiled by a criminal justice agency which concerns an identifiable individual and relates to the nature or disposition of a criminal charge, an arrest, a pretrial proceeding, other judicial proceedings, sentencing, incarceration, rehabilitation or release.

Department - The department refers to the Department of Correction.

Department Research - Department research refers to studies conducted by employees of the department usually by, or in conjunction with, the Research Division of the department.

Medical Research - Medical research shall include, but not be limited to, medical experiments, cosmetic and pharmaceutical studies using inmate subjects.

Outside Research - Outside research refers to studies conducted by individuals from universities, research firms, or by someone other than a DOC employee.

Principal Researcher - The principal researcher is the person who provides on-site supervision of a research study, and is responsible for the detailed conduct of the research.

Research Manager - The research manager refers to the research manager of the department.

Social Science Research - Social science research shall include, but not be limited to, studies involving the use of interviews, questionnaires, participant observation and reviews of case records. It shall not include any study which will expose research subjects to the possibility of physical, physiological, or other harm as a consequence of their participation in the study.

Superintendent - Superintendent refers to the chief administrative officer of a correctional facility.

180.07 Medical Research

Inmates within the custody of the Department of Correction shall not be permitted to participate in medical, pharmaceutical, or cosmetic experiments. 103 CMR 180.00 does not preclude inmates from participating in clinical trials conducted under applicable federal and state law when the medical provider(s) for the Department of Correction determines that such participation is medically appropriate for a specific inmate, and provided that:

(1) All proposals for clinical trials under 103 CMR 180.00 shall be submitted to the Associate Commissioner of Health Services for review and approval. A copy of all proposals shall be kept on file in the central office research division of the Department of Correction;

(2) All proposals for clinical trials under 103 CMR 180.00 must conform to the requirements of the Code of Federal Regulations (45 CFR 46), establishing special provisions which protect prisoners involved as human subjects in research activities, and applicable state law;

(3) All clinical trials under 103 CMR 180.00 shall be conducted under conditions approved by the Associate Commissioner of Health Services. The Health Services Division of the Department of Correction shall establish policies consistent with 103 CMR 180.00. (See 103 DOC 662 Inmate Enrollment in Clinical Trials).

(4) Nothing in 103 CMR 180.00 shall be construed as affording any inmate a protected right to participate in clinical trials or as creating any private right of action to enforce the provisions of 103 CMR 180.07 not otherwise available by law.

180.08 Application to Conduct Outside Social Science Research

Every application to conduct outside research shall include the following information:

1. title of study;
2. name, address, and telephone number of the principal researcher and all research staff;
3. an endorsement by a recognized research organization, such as university, college, private foundation, consulting firm, or public agency that has a mandate to perform research, certifying that the research proposal is for valid scientific, educational, or other public purposes;
4. a summary of the goals of the study and the justification for the research;
5. a detailed research design including;
 - (a) the departmental resources and personnel that may be needed for the study;
 - (b) the sampling procedures for selecting inmate subjects or inmate records for the research, along with the criteria that will be used for sample selection;
 - (c) the procedures for data collection and copies of research instruments to be used, including interview schedules, questionnaires, data collection forms, tests, etc.;
 - (d) the security procedures that will be followed to protect subject privacy and confidentiality; and
 - (e) details of compensation, if any, to be paid to inmate subjects.
6. a copy of the written summary requested by 103 CMR 180.10 (1).

180.09 Procedure for obtaining Approval to Conduct Outside Social Science Research

1. If the study is to be performed at a correctional facility two copies of the application prepared in accordance with section 180.08 shall be submitted to the research manager who will review and circulate to the appropriate superintendent.
 - (a) If the study requires the direct involvement of inmates, such as by responding to interviews or completing questionnaires, the superintendent may ask a representative group of inmates to review the research proposal and to submit to him/her a recommendation for approval or disapproval of the research application.
 - (b) The superintendent shall forward to the research manager one copy of the application, together with his/her recommendation and the recommendation of the representative inmate group, where such a recommendation exists.
 - (c) The research manager shall then forward the research application to the Commissioner for a final decision. He/she shall include the recommendation of the superintendent and the inmate group, where such a recommendation exists, along with his/her own recommendation.
2. If the study is to be performed in the central office, two copies of the application prepared in accordance with 103 CMR 180.08 shall be submitted to the research manager for review. The research manager shall forward one copy of the application to the Commissioner for final decision, along with his/her recommendation for approval or disapproval.
3. For studies which require access to criminal offender record information (CORI), an application shall be made to the Criminal History Systems Board in accordance with the regulations contained in Appendix (1) and in the format of Appendix (2). A copy of this application shall be submitted to the research manager. If this application contains the information required in 103 CMR 180.08, a separate application to the Department

of Correction will not be necessary. Individuals, contractors of the department, and/or other agencies who already have CORI clearance for purposes other than research (e.g., therapeutic treatment) must still file an Access to Criminal Offender Record Information For the Purpose of Research application.

The applicant shall provide the research manager with a copy of the decision letter of the Criminal History Systems Board. No research involving access to CORI shall be permitted to commence until approval has been secured from the Criminal History Systems Board.

4. The Commissioner shall provide written notification of his decision to approve or disapprove a research proposal to the applicant, the research manager, and, where appropriate, the superintendent and the representative inmate group.

180.10 Conduct of Outside Social Science Research

1. The principal researcher shall explain the study and its justification to all potential subjects. A written summary in layman's language shall be prepared to facilitate this explanation and a copy shall be provided to each potential subject. It shall be made clear to all inmates that their participation in the research shall be purely voluntary and that their participation shall in no way affect the terms or length of their confinement.
2. Research involving criminal offender record information (CORI), shall be conducted in accordance with the regulations contained in Appendix (1).
3. The principal researcher shall maintain records adequate to enable the research manager or the superintendent to ascertain the status of a study at any time.
4. Any data collected during the course of the research shall be used only in the manner described to the subject prior to his/her entry into the study or in a manner specifically permitted by the subject subsequently.
5. No inmate who is a research subject shall receive compensation, remuneration, or payment of any kind

in connection with a research study without the express permission of the superintendent of the institution. Such payments, if approved, shall be consistent with the legal guidelines relating to work release and other inmate work programs conducted by the department.

6. No employee of the department shall receive compensation, remuneration, or payment of any kind from the researcher. An employee receiving such compensation, remuneration, or payment shall be subject to administrative sanctions deemed appropriate by the Commissioner.

180.11 Follow-up Reports on Outside Social Science Research

1. Immediately following the institutional or central office phase of any research study, a brief report shall be prepared by the principal researcher. This report shall include a summary of the conduct of the study. Copies of this report shall be sent to the research manager and to the superintendent of any involved institution.
2. When the entire research is completed, a copy of any report of the results which may be prepared or published shall be provided by the principal researcher to the research manager and the superintendent.
3. In any report of results, researchers shall not use correct names of subjects or describe any inmate in such detail that he/she might be identified.
4. Written policy and procedure governing the conduct of research in the institution shall comply with state and Federal guidelines. For the use and dissemination of research findings and with accepted professional and scientific ethics.

180.12 Violations of Outside Social Science Research Regulations

1. Violations of these regulations on outside research or other department regulations in the course of the research may lead to removal of permission to conduct the current study and any further research.
2. Violations of the regulations of Appendix (1) with regard to criminal offender record information may

subject the violator to civil or criminal liability under M.G.L. c. 6, ss. 177 and 178.

180.13 Department Social Science Research

1. Research Design - A research design for department research shall be prepared in accordance with 103 CMR 180.08(4), (5), and (6).
2. Superintendent Review - If the study is to be performed at a correctional institution, the superintendent shall have the opportunity to review the research design and make any recommendations prior to the start of research.
3. Commissioner Review - The Commissioner shall have the opportunity to review the research design and make the decision regarding approval or disapproval of the research.
4. Voluntary participation of Inmates - If the research design calls for the direct participation of inmates, such as by responding to interviews or completing questionnaires, it shall be made clear to all inmates that their participation in the research shall be voluntary.
5. Dissemination of Research Results - Research results shall be available to the Commissioner and, where the study has been conducted at a correctional institution, the superintendent. Research findings shall ordinarily be published and distributed, unless it had previously been determined by the Commissioner that the study be conducted for internal purposes only.

180.14 Appendix

Appendix (1) is a document entitled, "803 CMR 8.00 Access to CORI for Research Purposes."

Appendix (2) is a document entitled, "Application for access to Criminal Offender Record Information for the Purpose of Research."

180.15 Responsible Staff

1. The research manager shall be responsible for the implementation of these regulations throughout the department.
2. Each superintendent shall be responsible for implementation of this policy, and for the

development of any and all necessary and appropriate facility policies and procedures.

180.16 Review Date

103 CMR 180.00 shall be reviewed annually from the effective date by the Commissioner or his designee. The party or parties conducting the review shall develop a memorandum to the Commissioner with a copy to the central policy file indicating that the review has been completed. Recommendations for revisions, additions or deletions shall be included.

180.17 Severability Clause

If any article, section, subsection, sentence, clause, or phrase of 103 CMR 180.00 is for any reasons held to be unconstitutional, contrary to statute, in excess of the authority of the Commissioner or otherwise inoperative, such decision shall not affect the validity of any other article, section, subsection, sentence, clause or phrase of these regulations.

180.18 Effective Date

These regulations are effective upon publication in the Massachusetts Register.